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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,054	09/18/2003	Keith D. Martin	M1224/20001	5480

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EXAMINER

KATCHEVES, BASIL S

ART UNIT PAPER NUMBER

3635

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,054

Applicant(s)

MARTIN, KEITH D.

Examiner

Basil Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 1 objected to because of typographical errors in line 10. Appropriate correction is required.

Claims 1 and 9 are objected for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preambles of claims 1 and 9 are drawn to a pool cover support, as a subcombination. However, the claims later recite a pool, appearing to be a combination of the support and pool. Clarification is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,223,358 to DePietro in view of U.S. Patent No. 6,442,773 to Kopyar et al.

Regarding claim 1, DePietro discloses a cover for swimming pools, the cover having a central upstanding post (fig. 1: 30) with a bottom and top, a plurality of flaccid straps (fig. 2: 58), the straps having a first end secured to the top of the post (fig. 2: 56) and a second end (60) releasably secured to a pool top surface. However, DePietro

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does not disclose the straps and post as forming a conical umbrella like shape since the pool of DePietro is not circular. Kopyar discloses a pool cover support for circular pools, the support having a post with bottom base and top portion which supports flexible straps linked with the pool upper edge (fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify DePietro by using the single pole base, as disclosed by Kopyar, in order to use the support in circular pools.

Regarding claim 2, DePietro discloses a first member (see circular area above 60) on the straps for adjusting lengths.

Regarding claims 3 and 4, DePietro discloses a connector on the second end of the strap (60) to releasably secure to the pool.

Regarding claims 5 and 6, DePietro discloses the connector as being J shaped (60).

Regarding claims 7 and 8, DePietro discloses the first member as being ring shaped (see ring above 60).

Regarding claim 9, DePietro discloses the above ground pool as having an upper rim with a downward edge for securing the J connector (fig. 2: 62).

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,223,358 to DePietro in view of U.S. Patent No. 6,442,773 to Kopyar et al. further in view of U.S. Patent No. 5,608,926 to Donaton.

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Regarding claim 10, DePietro in view of Kopyar discloses the straps as joining together at an upper ballast member (56) but does not disclose clips for securing the first ends of the straps to the ballast member. Donaton discloses a clip for securing swimming pool cover straps (fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify DePietro in view of Kopyar by adding the clip of Donaton at the first ends of the straps in order to create a more secure attachment to the upper ballast member (56).

Regarding claim 11, DePietro discloses plural slots in the ballast member (fig. 2: see slots holding straps in 56).

Regarding claim 12, Kopyar discloses a base member (12) which holds the pole (14) upright.

Regarding claim 13, DePietro discloses the base member and post as being hollow (fig. 2: 12, 14 and 20).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to pool covers in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is

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(703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK


Basil Katcheves

2/10/05

Examiner AU 3635